

REMARKS/ARGUMENTS

The claims in the application have been cancelled and new claims substituted. New claims 13-19 clearly define over the art for the reasons set out below.

Claim 13 recites an airfoil comprising an airfoil body having a root, a tip, a leading edge, and a trailing edge. A first wall extends from the leading edge to the trailing edge, and a second wall extends from leading edge to the trailing edge. The second wall has at least one rib extending therefrom. An outer wall is disposed in spaced-apart relationship to the second wall and is attached at least one rib. The first end of the outer wall is adjacent to the leading edge and a second end of the outer wall being adjacent to the trailing edge. The outer wall comprises a high temperature, rhodium-based alloy foil that has a thickness of about 0.25 mm or less and includes at least 24 atomic percent of rhodium.

The Examiner has previously cited the Anderson Patent No. 4,142,824 as a basic teaching reference, in combination with the Japanese Patent No. 64-53,002 and Chandley or Craig. In essence, the Examiner's position is that because the applicant has not shown that the "foil" limitation to be "critical", the claims then pending were not patentable.

First, it should be noted that claims 1-12 did not actually contain thickness dimensions. New claims 13-19 do contain such limitations.

Second, the Examiner overstates the rigor with which the law requires applicants to show that particular limitations are "critical" by implying that the presumptive

obviousness of such claims can be overcome only by such a showing of criticality. This is not the case. Rather, the MPEP itself recognizes that a prima facie obviousness rejection can also be overcome by a showing "that the art, in any material respect, teaches away from the claimed invention", citing In re Geisler, 116 F.3d 1465, 1471, 43 U.S.P.Q.2d 1362, 1366 (Fed. Cir. 1997).

This principle has application here. The Anderson reference teaches a sheet metal sleeve surrounding the blade tip of turbine blade. There is no disclosure of either the material from which the sheet metal is made or the dimensions of the sheet metal. Recognizing this, the Examiner cites Chandry for the showing of a platinum/rhodium alloy, and Craig for the showing of a nickel-based alloy. The Examiner closes this part of the office action by stating that "the above reasons provide motivation that the metal sleeve 58 of Anderson may be modified into a high temperature foil." Office Action at 4.

Applicant respectfully disagrees for the reason that the Chandry patent does not disclose a foil having a thickness of 0.25 mm, and thus teaches away from the claimed invention by suggesting that a material of no less than 0.020 inches (.5 mm) is essential to the practice of the invention as disclosed in Chandry. In other words, there is no teaching or suggestion in Chandry that the desirable results of the present invention can be achieved with a foil as thin as disclosed and now claimed in claims 13 and 16. Chandry teaches only that a material twice as thick is sufficient.

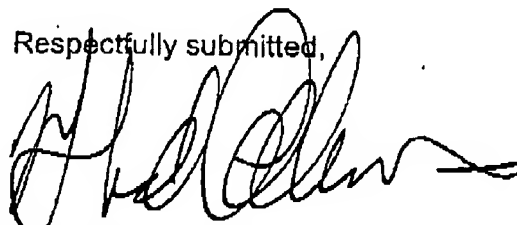
Neither Anderson nor Craig contain thickness dimensions, and thus add nothing.

Applicant has also amended the claims to recite that the alloy contains at least 24 atomic percent rhodium. This alloy is not disclosed in the art.

In summary, applicant has amended the claims to more clearly define the invention and has provided legal support for the allowability of the claims now pending.

For all of the reasons discussed above, Applicant submits that all of the claims in the case are now in condition for allowance. Such action is therefore respectfully requested at an early date. If the Examiner believes that issues remain for discussion, he is invited to contact the undersigned at the telephone number indicated below.

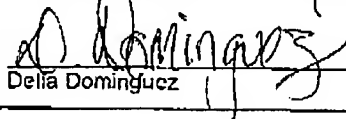
Respectfully submitted,



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I hereby certify that this correspondence is being mailed to the Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450 on 08/16/2004.



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Date of Signature